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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,881	01/08/2002	Michael Edward Griffith Bournell	5673-62083	7700

7590 03/24/2004

KLARQUIST SPARKMAN, LLP  
One World Trade Center, Suite 1600  
121 S. W. Salmon Street  
Portland, OR 97204

EXAMINER
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MCKELVEY, TERRY ALAN

ART UNIT	PAPER NUMBER
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1636

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Abandonment**

Application No.

10/043,881

Examiner

Terry A. McKelvey

Applicant(s)

BOURSNELL ET AL.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 24 July 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☒ A reply was received on 22 January 2004 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet

  
TERRY MCKELVEY  
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment: In the reply filed 1/22/04, applicant's representative indicates the five month extension time was to respond to the Office Action dated July 24, 2003 (which is a requirement for restriction/election) and noted that a continuation application has been submitted on January 19, 2004. The reply only consisted of an amendment to correct the priority data on the first page of the specification. This is not a proper reply to the communication mailed 7/24/03 because there is no mention of the requirement for restriction/election that was the only purpose of the Office communication mailed 7/24/03 and no election of the invention to be examined. This reply is not a bonafide attempt at a proper reply because there is no evidence of any attempt at responding to any of the substance of the communication of 7/24/03. Accordingly, because the reply filed 1/22/04 did not constitute either a proper reply or a bonafide attempt at a proper reply, and no other reply to the requirement for restriction/election was timely filed, the application is abandoned. .